

1904-076 Chancery Causes: George W. Pennington vs. A. J. Jackson
Lee Co.

Slump

CA-Debt
T-Property

To the honorable, J. A. W. Shaen, Judge of the Circuit
Court of the County of Lee, Va.

Amably Complainin, sheweth unto your honor,
your orator, George W Pennington, that A. J.
Jackson, being the owner of certain real and
personal property in said County and State, and
being such owner of said real and personal
property became indebted to your orator in the
sum of Two hundred dollars, to become due
and payable to your orator on or before the 2nd
day of June 1900, and the said Jackson being desir-
ous and willing to secure the payment of said
sum to your orator on or before said date, on
the 2nd day of June 1898 executed and delivered
to your orator his deed by which he gave to your
orator, and created ^{in favor of your orator,} a lien upon the following real
and personal property, to wit:— Three lots near
Pennington Gap, on the North Fork of Powell's
river and known as the Barnical property, and
two black horses about ten years old each, one of
which is known as the milour Young horse, and
the other as the John Turner horse, and two two
horse wagons, both of which are $3\frac{1}{4}$ in size, and
one an Old pickory and the other a Carves wagon,
Also one Luke & Lincoln log wagon with four
inch thimble, and one set of tug harness used
with said horses, and the same purchased by said
Jackson of W. P. Wood. And with the provision in
said deed that said Jackson might keep said
property in his possession until default was
made by said Jackson in the payment of said
sum, or until the same was subjected to the
payment of said debt. And your orator averis
that default has been made by said Jackson

A copy of said bill is herewith
filed by your orator and marked G.
and which has been recorded in the
clerk's office of the County Court of said
County.

1 in the payment of said debt; and that said debt
2 is justly due your orator and no part thereof has
3 ever been paid; and that your orator has the right
4 to have said property sold ~~and~~ a sufficiency thereof
5 to pay and discharge his said debt, together with
6 the costs of this suit and sale. &c.

7 In tender consideration whereof, and for as much
8 as your orator is remediless in the premises save
9 by the aid of a court of equity where matters of
10 this kind are properly cognizable. To the end therefore
11 that justice may be done in the premises, your
12 orator prays that the said A. J. Jackson may be
13 made a defendant to this bill and answer the
14 same, but not an oath, that being waived;
15 that the said defendant may be decreed to pay your
16 orator the said sum of money, with interest thereon
17 by a short day, to be appointed by this honorable
18 Court, and that in default of such payment, the said
19 property both personal and real be sold or a suffi-
20 -ciency thereof to pay said debt & costs; that proper
21 process may issue, directed &c. and that your orator
22 may have all such further and other and general
23 relief in the premises as the nature of his case
24 may require and to which he may be entitled.
25 And your orator will ever pray &c.

26 Omt. Incurs. p. 9.

Sept 3rd 1901

Plaintiffs Costs

Clerk 5.86

Tax 1.50

atty 15.00

Shff 1.00

Co. clerk 25

\$23.61

George W Pennington.

vs Bill in Chy.

A. J. Jackson:

1900, 2nd October Rules Bill
filed & pa Executed & D. N.

" 1st Nov rules taken the
last monday in Oct
D. N. Confd & Cause set
for hearing

The answer of A. J. Jackson, the defendant to a bill of complaint filed against him in the Circuit Court of the County of Lee, by G. W. Pennington complainant.

The respondent reserving to himself the benefit of all just exceptions to the said bill, for answer thereto, or to so much thereof as he is advised that it is material he should answer, answers and says;

True it is that he became indebted to the said Complainant in the sum of two hundred dollars and executed to said Complainant a deed purporting to be a lien on certain property both real and personal which said property is the same as is described in said Complainant's bill, to secure the payment to the said Complainant of the said \$200⁰⁰ which said debt was to become payable on the ~~for~~ 2nd day of June 1900, and that the said deed was executed on the 2nd day of June 1898,

But this respondent denies that he has made default in the payment of said debt; or any part thereof; but on the contrary, this respondent avers that long before the said debt became due that he had fully paid every cent thereof to the said complainant in logging and hauling, and instead of being indebted to the said G. W. Pennington, that the said Complainant is greatly indebted to this respondent for labor done, for logging and hauling, ~~for the said respondent~~, ~~to wit:~~ in the sum of \$; for which this respondent prays judgment over.

Besides this respondent avers that the said real estate mentioned in the complainant's bill was at the time of the execution of said deed, or lien, and is yet encumbered by a vendors lien thereon by the Pennington Gap Improvement Company, and that the said G. W. Pennington had full notice at the time the ~~deed~~ ^{said deed} was made of the vendors lien held by said Pennington Gap Improvement Company.

Your respondent also avers that he is now, and was at the time of the creation of said lien a householder, and ^{actually} engaged in the business of agriculture, and he further avers that the two horses described in the said deed or lien together with the gearing or harness ^{and harness} therein described were then and are now the only horses, owned by this respondent.

And therefore he is advised that he could
not give a lien on said horses and gearings, that
is in enforceable either in a court of equity or law.
And having fully answered the complainant's
bill, this respondent prays to be hence dismissed
with his reasonable costs by him in this behalf
expended, and he will ever pray etc,

J.C. Noel p.d.

A. J. Jackson
advs Answer

G. W. Pennington
Filed in open Court
and by leave thereof
Novr the 17th 1900
A. B. Munsey Clerk

5460: x 11

G. W. Pennington

A. J. Jackson et al

Upon motion of the plaintiff it is
ordered that this cause be stricken
from the docket without prejudice
to the rights of the plaintiff to re-
instate it hereafter if so advised,
or to institute such other pro-
ceedings as he may be advised.

G. W. Punnett

to J. W. order

A. J. Jackson

Ex C.B. No 7, p. 422.

Enter this

H. W. Steen

Feb 20/04

George W. Pennington,

Plaintiff,

v. D E C R E E , (In Chancery)

A. J. Jackson,

Defendant.

This cause coming on again this day to be heard upon the Plaintiff's Bill and exhibits filed therewith, the Answer of Defendant, and general replication thereto, and was argued by counsel.

Upon consideration whereof, it is adjudged, ordered and decreed that the Plaintiff, G. W. Pennington, recover of the Defendant, A. J. Jackson, the sum of Two Hundred Dollars (\$200.00), with interest from the 2nd day of June, 1900, and the costs of this suit. And it is adjudged that the Plaintiff has a lien on the real and personal property mentioned in the Bill, and Exhibit "A" filed therewith; and it appearing from the Answer of Defendant, Jackson, that there may be other liens on the real estate mentioned; and for the purpose of ascertaining the condition of the title to said real estate, and what personal property mentioned in the deed of trust or mortgage, referred to in the bill and proceedings, is still on hand and subject to the Plaintiff's lien; it is, therefore, adjudged, ordered and decreed that this cause be, and it is hereby, referred to H. L. Woodward, Special Commissioner, to inquire into and report, FIRST, What liens exist against the real estate in the bill and proceedings mentioned, and the order of their priority; and, SECOND, What personal property mentioned in

-2-

said deed of trust or mortgage is still in existence, and in whose hands it now is; and also as to the right of exemption set up by Defendant in his Answer.

He shall report to this Court at a future term thereof.

And this cause is continued.

George W. Bennington

vs. Deere.

A. J. Jackson

Entered on C. O. B.
Nov 6 P. 5-74

-3-

Enter this decree

H. A. W. Shum
June 7th 1901.

G. W. Runnington

A. J. Jackson

Upon leave
of court the defendant
A. J. Jackson files his
answer to the bill ~~to~~
which the plaintiff replies
generally & this cause is
continued.

H. W. Rarrington

or order

A. J. Jackson

Entered O B 6 P 472

Enter

H. W. Stum

Nov 17 - 1900

Lee Circuit Court

George W. Pennington vs. A. J. Jackson

IN CHANCERY

This cause coming on this day to be heard upon the bill of complaint and exhibit filed therewith, was argued by counsel. And it appearing that the defendant A. J. Jackson has been duly served with personal service of process and still fails to appear to plead, answer or demur, the bill is taken for confessed as to him; whereupon it is adjudged, ordered and decreed that the plaintiff recover of the defendant the sum of Two Hundred Dollars (\$200) with interest thereon from June 2nd 1900, until paid, and the costs of this suit, and if same is not paid within thirty days from this date, then I. P. ^{Ely} Haley, a deputy sheriff of this county, who is hereby appointed a special commissioner for that purpose, shall sell the property in the bill and proceedings mentioned at public outcry to the highest bidder. The personal property shall be sold for cash in hand, and the real estate shall be sold upon a credit of six and twelve months, purchaser to execute his notes payable to the commissioner with approved personal security, bearing interest from date, and a lien shall be retained upon the property to further secure said purchase money until the whole thereof shall be paid. Said sale shall be held at some convenient place in the town of Pennington Gap between the hours of 10 A.M. and 4 P.M., and before selling, said commissioner shall advertise the time, terms and place of sale by posting ^{more} three or ~~four~~ written notices thereof in the county of Lee for thirty days prior to said sale, one of which shall be at the court-house door and the others in conspicuous places in and

near the town of Pennington Gap. Before selling, said commissioner shall execute bond before the clerk of this court in the penalty of \$400.00 conditioned according to law; and the defendant is hereby required to deliver all of the personal property in the bill and proceedings mentioned to said commissioner on or before the said day of sale, and in default of his so doing the said commissioner is hereby authorized and directed to take possession of said personal property and have the same at the said place of sale upon the day fixed therefor. Said commissioner shall only sell so much of said property as shall realize the sums here decreed for, and he shall first sell the personal property and if this shall not realize said sums he shall then sell the said real property, or so much thereof as may be necessary to realize the balance so decreed for, and this cause is continued.

Geo W Pennington

9th { Decree

A. J. Jackson

tor, and this cause is continued.

thereof as may be necessary to realize the balance so decreed
sums he shall then sell the said real property, or so much
sell the personal property and if this shall not realize said
shall realize the sums here decreed for, and he shall first
said commissioner shall only sell so much of said property as
the name of the said place of sale upon the day fixed therefor
directed to take possession of said personal property and have
his so doing the said commissioner is hereby authorized and
allowed on or before the said day of sale, and in default of
property in the bill and proceedings mentioned to said commis-
defendant is hereby redmired to deliver all of the personal
the penalty of \$400.00 conditioned according to law; and the
aonor shall execute bond before the clerk of this court in
near the town of Pennington Gap. Before selling, said commis-

Virginia

At a circuit-court continued^{and} held for
Lee County at the court-house thereof on Friday
June 7th 1901.

George W. Pennington	Plff	} In C. hy.
vs		
A. J. Jackson	Def't	

This cause coming on again this day to
be heard upon the plaintiff's bill and exhibits
filed therewith the answer of defendant and gen-
eral replication thereto^{and} was argued by counsel.
Upon consideration whereof it is adjudged ordered
^{and} decreed that the plaintiff G. W. Pennington
recover of the defendant A. J. Jackson the
sum of two hundred dollars (\$200⁰⁰) with
interest from the 2nd day of June 1900 and the
costs of this suit. And it is adjudged that
the plaintiff has a lien on the real and
personal property mentioned in the Bill^{and}
Exhibit "A" filed therewith; and it appear-
ing from the answer of defendant, Jackson
that there may be other liens on the real
estate mentioned and for the purpose
of ascertaining the condition of the title to
said real estate^{and} what personal property
mentioned in deed of trust or mortgage referred
to in the bill^{and} proceedings is still on hand
and subject to the plaintiff's lien; it is
therefore adjudged ordered^{and} decreed that

this cause be and is hereby referred to H. L. Woodward, Special Commissioner to inquire into ^{and} report - (First) What liens existing against the real estate in the bill ^{and} proceedings mentioned and the order of their priority; and (Second) What personal property mentioned in said deed of trust or mortgage is still in existence and in whose hands it now is; and also as to the right of exemption set up by defendant in his answer. And this cause is continued.

A. Copy

Teste; A. B. Munsey Clerk

Commissioner's Notice.

The Parties interested in the decree of which the foregoing is an attested office copy, will take notice that on the 20 day of July 1901, at my office in the Town of Jorresville Va., I shall proceed to hear the same, when and where they are required to attend with such books, papers, vouchers and evidence as will enable me to comply with the order of the court. This June 26th, 1901.

I hereby accept legal service of the above notice.

H. L. Woodward Special Commissioner.

J. C. Wood, atty for Plaintiff.
Orr & Irvine, attys for Plaintiff.

"Notice"

G. W. Pennington, Alf. { In Chy.
vs

A. J. Jackson, Deft.

To Hon. W. A. W. Skeen, Judge of
the Circuit Court for Lee County Va.,

Your undersigned Special Com-
missioner in the above styled cause,
acting under a decree entered in same
at last June term thereof begs leave
to report as follows:

That he gave the parties to said suit
notice of the time and place of his sitting
by securing the acceptance of same by plain-
tiff by O. W. Davis, his attorney, and by
defendant by J. C. Hall his attorney, a copy
of which notice and the acceptances and
also the decree is herewith filed marked
"Notice".

That he took the deposition of M. L.
Slomp which is herewith marked "Depo-
sition".

From said deposition your commis-
sioner ascertained that one of the horses
on which plaintiff had been given a li-
en by said defendant was then in his
said M. L. Slomp's possession, but your
commissioner has been informed that
since said deposition was taken that
said horse has died, but this informa-

tion, not having been sworn to, your commissioner is not in a position to say it is true, but he believes it is.

As to the other personal property on which said A. J. Jackson gained said Is. W. Pennington your commissioner has been unable to find or locate, but from the best information he can get none of it is in the possession of said Jackson now, he having disposed of all of it sometime since.

As to the real estate mentioned in said deed of Trust your commissioner is informed that same was two lots which said Jackson had contracted from the Pennington Land Improvement Company, that he never paid said company the purchase price for them and no deed having been made to him for same, said company took them back and delivered back to Jackson his notes which he had sent for them.

Respectfully submitted

H. L. Woodward,
Spc. Commissioner.

Commissioner's fee
five hours at 75 cts per hour \$3.75

Met at my office in Fordsville Virginia on July 20th 1901 pursuant to notice to take evidence in the Chancery cause of George W. Pennington against R. J. Jackson now pending in the Circuit Court for Lee County Virginia. No witness appearing the further proceedings is continued until July 22nd 1901.

H. L. Woodward, Special Commissioner.

The deposition of M. L. Slomp taken before me H. L. Woodward Special Commissioner in the Chancery cause of George W. Pennington against R. J. Jackson at my office in Fordsville Virginia pursuant to adjournment on July 22nd 1901.

M. L. Slomp being duly sworn deposes and says:

Ques 1

What your age, residence and occupation,

Ans.

My age is 46, reside at Pennington Gap, Va. and am farming.

Ques 2

Are you acquainted with the defendant R. J. Jackson in the above styled suit?

Ans.

I am acquainted with R. J. Jackson son of Pennington Gap, Va.

Ques 3

Do you know who, ^{now} owns a black horse, or two black horses formerly owned by said R. J. Jackson and where they are?

Ans.

I own one black horse which was formerly owned by R. J. Jackson, it is known as the John Turner horse.

I have owned the horse something like three years, I think I got him in the winter. I know of Jackson owning no other John Turner horse. I don't know what became of the white young black horse. And further this deponent saith not.

M. L. Slerry

Virginia, Lee County, to wit:-

I, H. L. Woodward, Commissioner, hereby certify that the foregoing deposition of M. L. Slerry was taken, sworn to and subscribed before me, at the time, place, and for the purposes mentioned in the caption. Given under my hand this July 22nd 1901.

H. L. Woodward, Spe.
Commissioner.

G. W. Pennington
vs { on bdy.

A. J. Jackson
Commissioner's
Report.

Filed Oct 24th 1901

A. B. Munsey Clerk

"Deposition"

Fee \$3.75

This agreement made this 2^d day of June 1898
by and between A. J. Jackson of the one part and
George H. Pennington of the other, It is witnessed
that whereas said Jackson is justly indebted
to said Pennington in the sum of \$200⁰⁰, and
being desirous and willing to secure the
~~payment of the same on or before the 2^d~~
day of June 1900, do by these presents give
and create a lien upon the following real
and personal property, to wit: Three lots
near Pennington Hope on the north fork of
Powell river and known as the Charmichael
property, and two black horses, about ten
years old, each, one of which is known as
the Widow young horse, and the other as the
John Turner horse, & two two horse wagons
both of which ~~is~~ are 3/4 in size & one &
old hickory, & the other a carrier wagon,
also one Duke & Lincoln logg wagon
with four inch thimble, and one set of
tug harness used with said horses and
is the same purchased by me of H. B. Wash.
It is agreed that said Jackson may
keep the aforesaid property in his possession
until default is made herein, or until
same is subject to the payment of the
dht aforesaid. Given under our hands
and seals on the day and date first
above written.

A. J. Jackson
G. H. Pennington

Virginia

Lee county to wit:

I Russ Gillespie Justice of the peace for the county and state aforesaid do certify that A. J. Jackson and Geo. W. Pennington whose names are signed to the writing within bearing date on the 2^d day of June 1898 have acknowledged the same before me in my county - aforesaid.

Given under my hand on the 8th day of June 1898

Russ Gillespie J. P.

Virginia, Lee County, to wit:-

In the Office of the clerk of the County Court for said County the 9th day of June 1898. This ~~document~~ ^{agreement} was presented and together with the certificate thereto annexed admitted to record

Leah D. V. Fairman Clerk

A. J. Jackson
with agreement

Geo. W. Pennington

Recorded in 1070

Page 205

Recorded in 1070

Page 205

Recorded in 1070

Page 205

Recorded in 1070

Page 205

Recorded in 1070

Page 205

Recorded in 1070

Page 205

Recorded in 1070

Page 205

Recorded in 1070

Page 205

Recorded in 1070

Page 205

Recorded in 1070

June 9th 1898
M. W. Fairman
12
5.60
12.50
5.10
7.35
15.00
5.10
7.35
15.00
5.10
7.35
15.00



12
36
712
11

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU THAT YOU SUMMON

A. J. Jackson

to appear at the Clerk's office of the Circuit Court of the County of Lee at the court-house thereof, at the Rules to be holden for said Court, on the *3rd* Monday in *October 1900*, ~~1899~~, to answer a bill in chancery, exhibited against *him* in our Court by

G. M. Pennington

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-house, the *10th* day of *October 1900*, ~~1899~~, and in the 12 *5th* year of the Commonwealth.

A. B. Munsey Clerk.

A copy—Teste:

Clerk.

G. W. Pennington

VS. { SUBPOENA
IN CHANCERY.

A. J. Jackson

Ors & Irvine p.q.

To 2nd Oct Rules.

CIRCUIT COURT.

Executed October
th 13 1800 by
delivering an
attested office copy
of the within subpoena
to A. J. Jackson
J. P. Ely S.S.
for W. J. Milham
S. L. C.